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JUL 01 2004

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TELECOPY COVER SHEET

Equipment Operator Contact Number: 617-310-8671. Please call if you do not receive all the pages.

TO: **Date:** July 1, 2004
 Name: Examiner Anthony D. Stashick of Art Unit 3728
 Company: U.S. Patent and Trademark Office
 Address:
 Telephone: 703-308-3876
 Fax: 703-872-9306

FROM: **Sender:** John V. Forcier, Esq.
 Number of Pages INCLUDING This Cover Sheet: 7
 Client: U.S.S.N. 09/915,216 Attorney Docket No. ADI-074

Mail Stop Issue Fee

Comments:

Attached, please find an Authorization to Charge Deposit Account and associated papers.

Sincerely,


John V. Forcier

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PATENT
Attorney Docket No. ADI-C74 JUL 01 2004
(257/40)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Berger et al.
SERIAL NO.: 09/915,216 GROUP NO.: 3728
FILING DATE: July 25, 2001 EXAMINER: A. D. Stashick
TITLE: Climate Configurable Sole and Shoe

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, and any document(s) referred to as attached hereto, is/are being transmitted to the United States Patent and Trademark Office, Facsimile No. (703) 872-9306 on this 1 day of July, 2004.



John V. Forcier

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Submitted herewith are:

1. Transmittal Form (1 pg.);
2. Authorization to Charge Deposit Account (2 pgs.); and
3. Fee Transmittal Form (1 pg.) (in duplicate).

3089212_1

TRANSMITTAL FORM

Application Serial Number	09/915,216
Filing Date	July 25, 2001
First Named Inventor	Berger
Group Art Unit	3728
Examiner Name	A.D. Stashick
Attorney Docket No.	ADI-074
Patent No.	Not applicable
Issue Date	Not applicable

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Check Attached <input checked="" type="checkbox"/> Copy of Fee Transmittal Form <input type="checkbox"/> Amendment/Response <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____] <input type="checkbox"/> Petition for Extension of Time <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form PTO-1449 <input type="checkbox"/> Copies of IDS Citations <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application <input type="checkbox"/> Formal Drawing(s) <input type="checkbox"/> Request For Continued Examination (RCE) Transmittal <input type="checkbox"/> Power of Attorney (Revocation of Prior Powers) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> CD(s) for large table or computer program <input type="checkbox"/> Amendment After Allowance <input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences <input type="checkbox"/> Appeal Brief (in triplicate) <input type="checkbox"/> Status Inquiry <input type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8 <input checked="" type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8 <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below) Authorization to Charge Deposit Account
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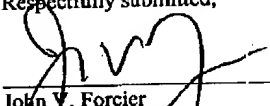
CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator
 Testa, Hurwitz & Thibault, LLP
 125 High Street
 Boston, MA 02110
 Tel. No.: (617) 248-7000
 Fax No.: (617) 248-7100

SIGNATURE BLOCK

Date: July 1, 2004
 Reg. No. 42,545
 Tel. No.: (617) 310-8671
 Fax No.: (617) 248-7100

Respectfully submitted,


 John V. Forcier
 Attorney for the Applicants
 Testa, Hurwitz & Thibault, LLP
 125 High Street
 Boston, MA 02110

3089217_1

FEE TRANSMITTAL **FY 2004**

Complete if Known

Application Serial Number	09/915,216
Filing Date	July 25, 2001
First Named Inventor	Berger
Group Art Unit	3728
Examiner Name	A. D. Stashick
Attorney Docket No.	ADI-074

METHOD OF PAYMENT

1. ☒ Payment Enclosed:
☐ Check ☐ Money Order ☒ Other
2. ☒ The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531.
☒ Required Fees (copy of this sheet enclosed).
☐ Additional fee required under 37 CFR 1.16 and 1.17.
☐ Overpayment Credit.
3. ☐ Applicant claims small entity status.

FEE CALCULATION

1. FILING FEE

Large Entity Fee (\$)	Fee Description	Fee Paid
770	Utility filing fee	
340	Design filing fee	
160	Provisional filing fee	

Number Filed	Number Extra	Rate	Amount
Total Claims	- 20 =	x \$ 18.00 =	
Independent Claims	- 3 =	x \$ 86.00 =	

☐ Multiple Dependent Claim(s), if any

\$290.00 =

TOTAL:

SMALL ENTITY DISCOUNT:

SUBTOTAL (1) (\$ 0.00

2. AMENDMENT CLAIM FEES

Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid
Total 29	- 27 =	2	x \$ 18.00 =	36.00
Indep. 2	- 3 =	0	x \$ 86.00 =	
			+ \$290.00 =	

☐ First Presentation of Multiple Dep. Claim

TOTAL: (\$36.00

SMALL ENTITY DISCOUNT: (\$)

SUBTOTAL (2) (\$ 36.00

FEE CALCULATION (continued)

Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid
130	65	Surcharge - late filing fee or oath	
50	25	Surcharge - late provisional filing fee or cover sheet	
130	130	Non-English specification	
2,520	2,520	Request for ex parte reexamination	
110	55	Extension for reply within first month	
420	210	Extension for reply within second month	
950	475	Extension for reply within third month	
1480	740	Extension for reply within fourth month	
2010	1005	Extension for reply within fifth month	
330	165	Notice of Appeal	
330	165	Filing a brief in support of an appeal	
290	145	Request for oral hearing	
130	130	Petitions to the Commissioner	
180	180	Submission of Information Disclosure Statement	
770	385	Filing a submission after final rejection (37 CFR 1.129(a))	
770	385	For each additional invention to be Examined (37 CFR 1.129(b))	
100	100	Certificate of Correction for Applicant's error	
110	55	Submission of Terminal Disclaimer	
Other fee (Specify)			
Other fee (Specify)			

SUBTOTAL (3) (\$ 0.00

SUBTOTAL (1) 36.00

SUBTOTAL (2) 0.00

SUBTOTAL (3) 36.00

TOTAL (\$ 36.00

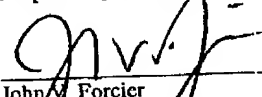
CORRESPONDENCE ADDRESS

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Patent Administrator
 Testa, Hurwitz & Thibault, LLP
 125 High Street
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Respectfully submitted,


 John V. Forcier
 Attorney for the Applicants
 Testa, Hurwitz & Thibault, LLP
 125 High Street
 Boston, MA 02110

Date: July 1, 2004
 Reg. No.: 42,545
 Tel. No.: (617) 310-8671
 Fax No.: (617) 248-7100

3089219_1

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FEE TRANSMITTAL FY 2004

Complete if Known

Application Serial Number	09/915,216
Filing Date	July 25, 2001
First Named Inventor	Berger
Group Art Unit	3728
Examiner Name	A. D. Stashick
Attorney Docket No.	AD1-074

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FEE CALCULATION (continued)

METHOD OF PAYMENT

1. ☒ Payment Enclosed:
☐ Check ☐ Money Order ☒ Other
2. ☒ The Commissioner is hereby authorized to credit or charge any fee indicated below for this submission to Deposit Account No. 20-0531.
☒ Required Fees (copy of this sheet enclosed).
☐ Additional fee required under 37 CFR 1.16 and 1.17.
☐ Overpayment Credit.
3. ☐ Applicant claims small entity status.

FEE CALCULATION

1. FILING FEE

Large Entity Fee (\$)	Fee Description	Fee Paid
770	Utility filing fee	
340	Design filing fee	
160	Provisional filing fee	

Number Filed	Number Extra	Rate	Amount
Total Claims	- 20 =	x \$ 18.00 =	
Independent Claims	- 3 =	x \$ 86.00 =	
		\$290.00 =	

☐ Multiple Dependent Claim(s), if any

TOTAL:

SMALL ENTITY DISCOUNT:

SUBTOTAL (1) (\$ 0.00)

2. AMENDMENT CLAIM FEES

Claims Remaining After Amend.	Highest No. Previously Paid For	Present Extra	Rate	Fee Paid
Total 29	- 27 =	2	x \$ 18.00 =	36.00
Indep. 2	- 3 =	0	x \$ 86.00 =	
			+ \$290.00 =	

☐ First Presentation of Multiple Dep. Claim

TOTAL:

SMALL ENTITY DISCOUNT:

SUBTOTAL (2) (\$ 36.00)

3. ADDITIONAL FEES

Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid
130	65	Surcharge - late filing fee or oath	
50	25	Surcharge - late provisional filing fee or cover sheet	
130	130	Non-English specification	
2,520	2,520	Request for ex parte reexamination	
110	55	Extension for reply within first month	
420	210	Extension for reply within second month	
950	475	Extension for reply within third month	
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330	165	Notice of Appeal	
330	165	Filing a brief in support of an appeal	
290	145	Request for oral hearing	
130	130	Petitions to the Commissioner	
180	180	Submission of Information Disclosure Statement	
770	385	Filing a submission after final rejection (37 CFR 1.129(a))	
770	385	For each additional invention to be Examined (37 CFR 1.129(b))	
100	100	Certificate of Correction for Applicant's error	
110	55	Submission of Terminal Disclaimer	
		Other fee (Specify)	
		Other fee (Specify)	

SUBTOTAL (3) (\$ 0.00)

SUBTOTAL (1) 36.00
 SUBTOTAL (2) 0.00
 SUBTOTAL (3) 36.00

TOTAL (\$ 36.00)

CORRESPONDENCE ADDRESS

Direct all correspondence to:
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 125 High Street
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 Tel. No.: (617) 248-7000
 Fax No.: (617) 248-7100

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Respectfully submitted,

John V. Forcier
 Attorney for the Applicants
 Testa, Hurwitz & Thibault, LLP
 125 High Street
 Boston, MA 02110

Date: July 1, 2004
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 Fax No.: (617) 248-7100

3089219_1

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PATENT
Atty. Docket No. ADI-074 RECEIVED
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JUL 01 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Berger et al. CONFIRMATION NO: 5641
SERIAL NO.: 09/915,216 GROUP NO.: 3728
FILING DATE: July 25, 2001 EXAMINER: A. D. Stashick
TITLE: Climate Configurable Sole and Shoe

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Applicants filed timely an Amendment and Response ("Amendment") via facsimile on April 5, 2004, in which Applicants added two dependent claims, namely claims 28 and 29. On June 9, 2004, a Notice of Allowance was mailed from the Patent Office. Applicants paid the issue and publication fees on June 17, 2004.

Upon further review, Applicants inadvertently did not include an excess claim fee payment or a further authorization in this application to charge the fee for the two additional dependent claims added by the Amendment filed on April 5, 2004. The application was filed with 27 total claims and 29 total claims were allowed. Therefore, Applicants believe that a fee is due for the two additional claims (i.e., \$36.00 for two extra claims at \$18.00 each). The failure to pay the fee was in error and without deceptive intent. Applicants have not received any notice of additional fees due from the Patent Office.

Authorization to Charge Deposit Account
USSN 09/915,216
Attorney Docket No. ADI-074

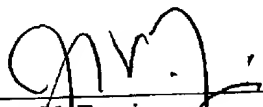
If the excess claim fee is due and has not been charged to our deposit account, the undersigned hereby authorizes the Director to charge our deposit account, No. 20-0531, for the \$36.00 excess claim fee, as well as any other fees that may be required, including but not limited to any extension of time fee required for accepting payment of the excess claim fee at this time. Further, if any extension of time is required, please consider this paper a conditional petition for the proper extension. In addition, Applicants include herewith a fee transmittal in duplicate.

Applicants respectfully request correction of this inadvertent error, without withdrawing the application from issue or otherwise delaying issuance of the patent.

The Examiner is invited to contact Applicants' undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

Date: July 1, 2004
Reg. No. 42,545
Tel. No. (617) 248-7675
Fax No. (617) 790-0100


John V. Forcier
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